

2023 election of the Registrar of the International Criminal Court
Questionnaire to candidates

Name: Gabrielle Louise McIntyre

Date: 10 September 2022

Please reply to the following questions by Sunday 11 September 2022:

Vision for the ICC Registry

1. Why have you applied for the position of registrar of the International Criminal Court (ICC)?

My application for the position of Registrar of the International Criminal Court (ICC) is motivated by my overriding commitment to international criminal justice and to the success of the ICC as the premier international criminal justice institution.

In that regard, I consider myself uniquely well placed to execute the Registrar's functions to the standard of excellence needed by the Court and expected by the international community. I would bring to the position two decades of directly relevant experience, including for well over a decade as Chef de Cabinet and Principal Legal Advisor to successive Presidents of the International Criminal Tribunal for the former Yugoslavia (ICTY) and the International Residual Mechanism for International Criminal Tribunals (IRMCT). In that capacity, I advised the President on the daily management of the institutions, including the activities of the Registrar as a service provider acting under the authority of the President. As a result of that extensive experience, I have a thorough understanding and appreciation of the Registrar's responsibilities, as well as an acute awareness of the qualities necessary for the holder of the role and of the appropriate relationship between the Registrar and the President. My extensive experience within the Chambers, an independent organ reliant on the services of an impartial Registry, has further solidified my deep understanding of the relationship and responsibilities of the Registrar to the other organs of the institution and the Chambers in particular.

Moreover, I would bring to the position my extensive experience with change management and institution building in diverse staffing contexts deriving from my role in the implementation of the completion strategies of the ICTY and the International Criminal Tribunal for Rwanda (ICTR) and their transition to the IRMCT. Additionally, I would bring hands-on expertise in establishing from scratch and leading a national transitional justice institution, the Truth, Reconciliation and National Unity Commission (TRNUC) of the Seychelles. As Chairperson of the TRNUC, I served as the principal legal and administrative officer and was responsible for all aspects of the establishment and operations of the institution, including outreach and communications as well as witness and victim protection.

Notably, my broad experience in leading change and in establishing and managing new institutions in both international and national contexts has given me important perspective about the necessity of comprehensive governance frameworks, as well as insights into the application of international criminal justice and transitional justice norms in a range of differing political situations. These experiences have also significantly enhanced my effectiveness as an institutional leader and deft manager of diverse teams.

Finally, I would also bring my experience as Chair of an international non-governmental organization, the Women's Initiatives for Gender Justice, a position which has given me significant insight into the important relationship of civil society within the Rome Statute system and of the imperative need for gender equality as a foundational basis for the success of that system.

2. What do you believe are the top two or three challenges confronting the ICC and Rome Statute system in the coming years, and how would you address them, focusing in particular on the role of the ICC Registry?

- (i) Challenge One

Given current economic realities, I consider that the ability of the Court to secure sufficient resources to carry out its operations will continue to be a top challenge confronting the ICC and the Rome Statute system in the coming years.

At the outset it has to be underscored that the budgeting of the Court raises complicated issues fundamentally arising from the lack of a clear shared philosophy between the Court and the Assembly of States Parties (ASP) of the appropriate benchmark for determining the resources to be allocated to the Court – in other words, whether the budget should be driven by the activities of the Court or by the envelope determined by the ASP irrespective of those activities. While ultimately the ASP has the authority to decide on the budget and set the envelope, the Court must be guided by its mandate in determining its activities and must therefore seek a budget to support the activities deemed necessary to implement that mandate. Resource shortfalls invariably place the Court in the untenable position of delivering short on its mandate with consequential reputational damage, which may have broader impacts detrimental to other goals of the Court, including universality.¹ A Court that is not able to effectively deliver on its mandate is unlikely to attract further membership.

As the Prosecutor has full independence in the determination of the budget requirements of his office, the Presidency is responsible for the overall administration of the Court, and the Registrar exercises his or her functions under the authority of the President, the Registrar's ability to set the budget of the Court is limited, which is appropriate given the legal structure of the Court. Even so, given the breadth of the Registry's activities and the coordination called for between the different organs, the Registrar may be well placed to identify and propose novel or creative approaches to meeting the budgetary needs of the Court as a whole. Also given the role of the Registrar in the presentation of that budget before the relevant budget authorities (including the Committee on Budget and Finance (CBF), the Hague Working Group and the ASP), it is imperative that the Registrar have a thorough understanding of the functions of the other organs and independent offices falling administratively under the authority of the Registrar so that the Registrar can effectively communicate their needs to those authorities. Moreover, in the preparation and presentation of the budget the Registrar must anticipate and be responsive to the communication and informational needs of the budgetary authorities as a means of assisting them in understanding the complex needs of the Court.

¹ Notably, a lack of timely payment by States Parties and consequent liquidity burdens placed on the Court may likewise signal a lack of political priority accorded to the Court by States Parties which may have equally deleterious effects on the goal of universality.

To meet these primary objectives, the Registrar must ensure early budget preparation in close coordination with the other organs as a necessary first step.² That coordination must, subject to the independent nature of the other organs, develop a shared vision amongst the organs of the results to be achieved and the resources required to do so and foster an institutional commitment amongst the organs to that vision and its resource requirements. Notably, the Court has not generally used a results-based budgetary model on the grounds that that model does not suit the one-court approach to budgeting given the different objectives and success indicators of the organs. Relevantly, however, different objectives do not prevent the Court from showcasing and identifying anticipated results per organ consistent with the independence of the organs and by conducting comparative analysis to past results. Further, while the organs may measure success in relation to different results, (for example, convictions may be a relevant measure for the Prosecutor, while Chambers may focus on establishing the truth) there are shared goals among the organs of the Court in reaching an end result, which can be crafted to suit a results-based budgeting model. Adopting such an approach may facilitate communication of Court performance and permit more readily a comparative analysis of increased efficiencies and improvements in performance across successive budget cycles.

Importantly, to secure the resources it requires to execute its mandate the Court – through the Registrar – needs to communicate effectively with the relevant budget authorities. Accordingly, to amplify the voice of the Court and maximize understanding by the CBF, the Court’s budget proposals should be presented in a way that mirrors the way the CBF has typically analyzed those proposals. Through mirroring, the Court’s justifications for its budget requests will be more readily appreciated by the CBF and the Court will deepen its understanding of how best to communicate its needs to the CBF. For the most part, mirroring CBF analysis would involve the collation of more data to underpin budget assumptions, greater reliance on comparative analysis in justifying requests and enhancement of the use of performance indicators to demonstrate more clearly Court achievements. Primarily, the Court must make a business case for budget allocation by tying budget performance to strategic goals and demonstrating through comparative analysis the persuasiveness of the budget assumptions. To date, the Court has not fully adopted this approach, focusing instead on performance indicators as a means of measuring fair and efficient judicial processes. While that may be the Court’s primary objective in the development and use of performance indicators, framing these impacts as results would allow budgetary authorities to better assess and appreciate the value of budget allocation to specific activities of the Court.

Further, it is important that the Court’s previous experience of the consequences of under-resourcing is also illustrated in budget requests so that the impact of under-resourcing on the functioning of the Court can be fully considered. For example, insufficient staff resources typically impact workplace culture and staff well-being and lead to increased levels of sick leave. On the whole, these detrimental impacts on staff morale and efficiency may represent a greater financial and reputational cost for the Court than the balance of the resources originally requested. These types of factors should not be ignored when making the business case for resource allocation and must be demonstrated through the collation and presentation of relevant data. In that respect, the use of results-based budgeting tied to performance indicators may help give these effects greater visibility.

² I note that in my role as Chef de Cabinet and Principal Legal Advisor to successive Presidents of the ICTY as well as at the IRMCT, I have direct experience of cross-organ budget negotiation through the vehicle of the Coordination Council and an acute appreciation of the negative institutional impacts of cross-organ disunity around budgetary issues.

Moreover, it is to be underscored that in the presentation of the Court's budget submissions, the CBF and the ASP expect the Court to only request budget increases after exhausting all possibilities of financing those increases through savings and efficiencies. As Chef de Cabinet and Principal Legal Advisor to successive Presidents of the ICTY and the IRMCT, I have extensive experience in the identification and implementation of savings and efficiency measures in collaboration with the Registry, including, for example, reductions in non-critical services, reduced utility usage and the double-hatting of staff functions. Further, as Chairperson of the TRNUC, I have direct experience of consistently working with less-than-optimal resources and of identifying and implementing cost neutral measures to meet operational goals, including through the multi-tasking of staff, the use of pro bono experts and partnerships with academic institutions.

Notably, while it is the responsibility of the ASP to fund the activities of the Court, and the Registrar plays a major role in securing that funding, the reality to date is that Court's reliance on State Party funding has not led to optimal resource allocation, and the Court has typically needed to seek other funding sources. While noting the risks raised by voluntary contributions when it comes to sustainability of funding of the Court, it may be necessary, in order to better secure the financial health of the Court, for the Registrar under the authority of the Presidency, to explore further avenues of raising additional voluntary funds in support of the activities of the Court, as Prosecutor Khan has successfully done recently. Relevantly, additional voluntary funds allocated to the Office of the Prosecutor alone may place pressure on the other organs, which may have insufficient resource allocation to keep pace with the Office of the Prosecutor, and have negative impacts for overall Court performance.

In addition to seeking to solicit additional funds from States, including non-States Parties, the Court could look to the corporate sector for financial support provided, of course, that the operations of corporate sponsors are consistent with international human rights standards and that such relationships would not impugn the integrity of the Court. In that regard, the Court could enter into partnerships with corporate sponsors in the provision of equipment or in the funding of specific activities, including internships for under-represented geographical regions, in which corporate partners gain reputational benefit through association with the Court. At a minimum, the Court needs to explore more creative ways to raise funds, including through consideration of specific fund-raising activities as well as giving thought to whether it has the potential of using its technical expertise as a means of generating income and alleviating some of the Court's budget dependency on the ASP.

(ii) Challenge Two

The second major challenge I see facing the Court is a precursor to being successful in securing State Party financial support and voluntary contributions from other sources, and that is demonstrating that the Court is an institution worth supporting. Poor quality investigations, acquittals and overturning of convictions on appeal have all – rightly or wrongly – overshadowed the positive aspects of the work of the Court and undermined political support, which in turn may underpin ASP reluctance to endorse increases in the budget of the Court despite significant workload growth and the visible negative impacts of under-resourcing. Notably, while the September 2020 Independent Expert Review Report (IER), which focused on areas in which the Court could improve, as opposed to the Court's achievements, may have further placed the Court on the back foot in terms of its reputational strength, it has also given the Court a prime opportunity to respond appropriately and in a way that further enhances States Parties' understanding of the complexities and challenges of the Court's operations, while solidifying its reputation as an institution committed to excellence

and synonymous with the international rule of law. Accordingly, the IER, with its comprehensive recommendations, offers the Court the opportunity to re-set the narrative of the Court provided that the Court demonstrates a commitment to and efficient implementation of a wide range of reforms. The Registrar would be well-placed to spearhead many of those reforms under the authority of the President and in close collaboration with the other organs. For reform to be effective and sustainable, however, it is important that the Court fully engage its dedicated and talented staff and draw upon their extensive experience of the Court's operations to ensure full ownership over reform measures by all those engaged in working with Court.

While the Court has already taken significant steps in responding to the IER, it is imperative that the Court craft and implement ongoing suitable public information activities, such as regular e-letters directed towards the ASP and civil society, which use simple and digestible messaging to showcase actions taken by the Court in relation to IER recommendations, including by specific identification of Court-led reforms coupled with estimates of assumed benefits or concrete, measured impacts highlighted through comparative analysis tools. It is equally important that the Court identify fully the existing limitations on implementation of other proposed reforms, particularly if hindered by the existing statutory framework or a lack of resources. With respect to demonstrating responsiveness to reforms not fully within the capacity of the Court, the Court should engage closely with the Review Mechanism, the Study Group on Governance, the Working Groups and civil society stakeholders to examine in detail obstacles to implementation and undertake a cost-benefit analysis of non-implementation. Public information activities around the IER and the Court's response could be designed and implemented by the Registrar under the authority of the President and in collaboration with the Prosecutor, with full respect for the independence of the Prosecutor.

(ii) Challenge Three

The third challenge I see facing the Court is one which has long been a concern of civil society, a pivotal partner to the Court and was also highlighted in the IER: the need for meaningful communications and outreach to victim communities in situation countries. This is a cross-organ challenge but one in which the Registry has a significant role to play given the particular responsibilities of the Registrar with respect to communications and outreach, as well as in the implementation of orders of the Chambers concerning the participation of victims in the proceedings and in relation to reparations.

At the outset, it is to be noted that there is no "one size fits all" for outreach and communication programs in situation countries and that any activities undertaken by the Court must be premised on an understanding of the target audiences. This includes an understanding of the context in which the activities are to be situated, including security risks, the available technological infrastructure, the popular means of information consumption and any distinguishing features of that consumption, including related to gender, as well as any relevant cultural sensitivities. While the Court has sought to implement effective outreach and communications programs criticism of the Court's effectiveness has not significantly abated rendering the time ripe for an in-depth examination of the Court's progress to date and a concerted effort to address relevant criticisms.

As a first step, I would propose that the Registry, under the authority of the President, undertake a desk-review of relevant reports, studies and literature on the Court's communications and outreach activities, or lack thereof, to have a thorough understanding of the range of issues already identified as impacting the effectiveness of the Court's communications and outreach strategies. Additionally, and ideally in conjunction

with a desk-review, the Registry could administer a survey in situation countries targeted at victim communities but also other relevant stakeholders, including local journalists, civil society and academia. The desk-review and survey could be undertaken by the Registry, with the President's approval, in collaboration with NGOs or with academic institutions on a pro bono basis.

Armed with the information derived from the desk-review, and survey, I would propose the establishment of a standing informal cross-organ working group with civil society actors, academia and journalists to review the results. The informal working group would then be tasked with crafting measures to address identified impediments to effective communications in a manner consistent with the Court's legal framework and its capacity, with the aim of developing a flexible but sustainable framework for communication and outreach activities by the Court. While communications and outreach activities are preferably designed and led by the Court, the benefits of specific measures of collaboration with civil society actors and other stakeholders should also be explored along with the parameters of those collaborative relationships.

The outcome of the work of the informal working group could result in a new strategic framework for the Registry's communications and outreach efforts and for the Court more generally, while also increasing dialogue and understanding between relevant actors and the Court with respect to the challenges of meaningful communication by the Court in any particular situation country. I would also propose, as a matter of course, monitoring and evaluation of outreach and communication activities to facilitate lessons learnt and motivate continuous improvements.

3. The Registry is a neutral organ of the Court that provides services to all other organs so the ICC can function and conduct fair and effective public proceedings. How would you describe the relationship of the ICC registrar vis-à-vis the ICC Presidency and the ICC Chambers; the Office of the Prosecutor? Additionally, how would you describe the relationship with the Trust Fund for Victims?

To be successful, the relationship of the Registrar to the Presidency must be one of transparency and trust. The Registrar, as the principal administrative officer of the Court, has primary responsibility for the non-judicial aspects of the administration and servicing of the Court and is subordinate to the Presidency, which is responsible for the overall proper administration of the Court, with the exception of the Office of the Prosecutor. The Registrar exercises his or her responsibility under the authority of the President of the Court, and as such, must keep the President informed and ensure the President's approval of the manner in which the Registrar discharges his or her servicing and administrative responsibilities.

The Registrar's relationship with the Chambers is that of an impartial service provider to the Chambers as an independent organ, the Chambers bearing responsibility for the core work of the Court, including the conduct of proceedings and the issuance of judgments. The Registrar is responsible for ensuring that the Chambers are provided with all the resources and support needed to be able to carry out their functions in a fair and efficient manner. The Registrar's responsibilities in support of the work of the Chambers are extensive and include, for example, the identification and facilitation of victim participation, administration of protective measures for witnesses, the assignment of defence counsel, the provision of translation and interpretation services, the management of records and their dissemination as appropriate, to name a few. The Registrar also serves as the channel of external communication for the Chambers and is responsible to the Chambers for the implementation of its orders and for ensuring public understanding about the mandate of the Court and its conduct of proceedings.

The Registrar's relationship with the Office of the Prosecutor is governed by the Prosecutor's role as a party to the proceedings before the Chambers and the Prosecutor's full, independent authority over the management and administration of the Office of the Prosecutor. In that respect, the Registrar's role as principal administrative officer of the Court is without prejudice to the autonomy accorded to the Office of the Prosecutor over all aspects of the functioning of his or her office. Nonetheless, pursuant to the one court principle, the relationship of the Registrar with the Prosecutor is underpinned by consultation and collaboration. The Registrar is accordingly directed to consult with the Prosecutor in the provision of services that impact the functioning of the Office of the Prosecutor and to collaborate with the Prosecutor on issues of cross-organ importance, including protective measures and other assistance to witnesses and victims, staff regulations, codes of conduct and on the adoption of Registry specific regulations. The Prosecutor also has an obligation to consult with the Registrar on the adoption of regulations for the Office of the Prosecutor that may impact upon the operations of the Registry. In addition, due to the overlap between the functions of the two organs in certain areas, the Registrar collaborates with and provides support to the Prosecutor in terms of human resource services, facilitation of the implementation of training needs of the Office of the Prosecutor, interpretation and translation services, public information and outreach services, including field office support, as well as other areas. In undertaking all of this, the Registrar must ensure that he or she maintains the impartiality of the Registry as a neutral service provider.

The Registrar has a cooperative relationship with the Trust Fund for Victims (TFV), which is an independent body governed by a Board of Directors. Due to the resource constraints of the TFV, the Registrar provides administrative, legal and communication support services to the secretariat of the TFV and the Victim Participation and Reparations Section of the Registry coordinates and collaborates with the TFV at the reparations stage of proceedings, including pursuant to judicial orders. For example, the Registry was ordered by the Chambers in the case of Ntaganda to assist the TFV in the identification of potential beneficiaries of reparations, as a means of increasing the efficiency of that process. The Registrar can also provide assistance to the TFV in the identification of implementing partners for reparations and in implementing the orders of the Court concerning reparations more generally, including through the field offices of the Registry

Experience in management and addressing workplace culture issues

4. Please describe your skills and experience relevant to the effective management of the ICC's human resources, including in addressing allegations of discrimination, harassment (including sexual harassment), bullying and/or abuse of authority on the part of staff members; in addressing the chronic imbalance in geographical representation and that of women in senior management positions; as well as addressing issues that disproportionately affect women, minorities and people of color.

During my tenure at the ICTY and IRMCT, I was responsible for the professional development and well-being of the staff of the Office of the President and the Chambers more broadly. In this role, I successfully navigated significant challenges impacting on the morale of staff resulting from downsizing of the ICTY and ICTR and transition of both institutions to the leaner model of the IRMCT. As part of that process, I advocated for and secured equal consideration of both ICTY and ICTR staff in the Chambers of the IRMCT, overturning a policy that favored ICTY staff to the detriment of their ICTR colleagues. I also undertook advocacy efforts with United Nations partners and other institutions to open up staffing opportunities for downsized ICTY and IRMCT staff

as a measure of demonstrating institutional concern for staff well-being and maintaining motivational levels of staff who were effectively working towards their unemployment.

As a senior manager, I regularly implemented 360-degree performance assessment reviews for all staff under my supervision, consulting Registry and Chambers staff broadly. This process of cross-organ review assisted in the development of collaborative relationships between Chambers and Registry staff and supported the development of institutional as opposed to organ loyalties. I also addressed any issues impacting performance or well-being expeditiously and consistently monitored the motivation of staff. In that respect, I implemented measures to maintain levels of motivation, such as through portfolio rotation.

I also served as the Focal Point for Gender and the Focal Point for Sexual Exploitation and Abuse. I supported many individual staff members from diverse cultures and genders, including people of color, in the navigation of both informal and formal measures of redress concerning allegations of discrimination, sexual harassment and abuse of authority. Further, having been trained as an Office of Internal Oversight Services (OIOS) investigator, I assisted the Registrar of the IRMCT in the investigation of allegations of bullying and abuse of authority in the workplace, providing recommendations on the appropriate resolution of those issues.

Moreover, I advocated for and secured agreement from successive Presidents of the ICTY and the IRMCT for the implementation of flexible working arrangements in the Chambers and strongly advocated against “face time” as a measure of professional commitment, noting the disadvantage that accrued to women of according institutional value to “face time” over actual productivity, especially given the disproportionate burden on women of childcare and other caregiving responsibilities.

With respect to gender imbalance in senior management positions, as well as chronic geographical imbalance, as Focal Point for Gender, I worked with the IRMCT Registrar on the implementation of gender policies to accord with developing norms and standards concerning gender and diversity. Further, I directly implemented – through participation in interview panels and interview review boards – the policies of the ICTY and the IRMCT derived from the broader United Nations system that prioritize the hiring of qualified persons from unrepresentative geographical groups or genders as a measure towards addressing imbalances.

As Chair of the Women’s Initiatives of Gender Justice, I have an acute awareness of the importance of gender balance in international institutions, the Women’s Initiatives having monitored the work of the ICC from a gender perspective for close to two decades, and I am personally committed to ensuring gender equality at the Court.

Further, in my role as Chairperson of the TRNUC, and thus the Commission’s principal administrative officer, I have been responsible for the application of relevant human resource policies, and for the development of standard operating procedures and codes of professional conduct. I have also been directly responsible for the professional development of a team with no legal training or previous experience of human rights or transitional justice processes. I led the development and implementation of performance evaluation for staff and consistently addressed issues of underperformance and breaches of institutional integrity in a productive and fair manner.

5. What, in your opinion, does the Rome Statute requirement of “high moral character” mean and how do you embody these characteristics? What measures can be taken to ensure that all ICC officials and staff also embody the requirement of high moral character?

High moral character requires the characteristics of honesty, integrity, trustworthiness, independence, transparency, impartiality, respect for diversity and gender, reliability, full adherence to governance frameworks and institutional loyalty. Throughout my long career in international criminal justice, I have consistently demonstrated all of these qualities as a matter of course and established a strong reputation for high moral character at all of the institutions where I have served. My retention as Chef de Cabinet and Principal Legal Advisor to successive Presidents of the ICTY was based in part on this reputation.

In my role as Chairperson of the TRNUC, I have likewise developed a reputation for the highest standards of morality and cultivated trust in the work of the Commission through my management of public hearings, my interactions with Government authorities and my publicly demonstrated resistance to political pressures and refusal to be intimidated or swayed in the implementation of the TRNUC mandate.

To ensure that all ICC officials and staff embody the requirement of high moral character, it is important to cultivate a shared understanding across genders and cultures of the requirements of high moral character. In that respect, while the Court already has a range of regulatory instruments that govern the conduct of staff and officials at the Court, it may be beneficial, as advocated by the IER, to identify some Court-wide values. If these values are to be Court-wide values, then it is important that they are identified and agreed upon by the stakeholders of those values – the staff and officials of the Court. The Court should institute an interactive and inclusive process of value identification underpinned by trainings that are designed to encourage active participation, ownership, understanding and ultimately commitment to the values identified. Once this process is complete, it is imperative that the Court leadership demonstrate clear commitment to the Court’s values by their own conduct and show willingness to deal with contraventions of those values.

In that respect, it is important to have adequate frameworks in place in which staff have confidence to report ethical breaches without fear of retaliation. These frameworks must also have the capacity to conduct independent quality investigations and to make proposals for effective redress, which are implemented. Notably, the IER identified a lack of confidence by staff in the existing avenues for reporting and redress at the ICC through the Independent Oversight Mechanism (IOM) and the inappropriateness of the use of the IOM, headed by a P5, to investigate allegations of misconduct on the part of Judges, or other senior officials of the Court. The IER outlined measures for reform, some of which are being implemented by the Court, including the recruitment of an Ombudsman, which is a positive first step.

Based on my longstanding experience of dealing with issues of allegations of workplace misconduct, I can attest to the generally negative impact of the use of formal mechanisms as a means of resolving those disputes. These negative impacts result from the long time-frames for resolution, the difficulties in establishing allegations made, especially in relation to allegations of sexual misconduct and the anxiety that pertains to being a victim of such conduct and of having reported it. It is therefore important that the Court institute appropriate vehicles of mediation that have the trust and confidence of the staff and that are effective at resolving disputes in a satisfactory manner in addition to the availability of an Ombudsman.

Participation of victims and affected communities

6. Please describe your experience and/or expertise in dealing with victim participation in proceedings. How would you manage the Registry's role to ensure that the statutory right of victims to participate in proceedings is achieved in the most meaningful manner whilst ensuring efficiency and expediency?

In my role as Chairperson of the TRNUC, I have over three years of direct engagement with victim communities and of working to ensure their meaningful participation in the proceedings of the TRNUC, as the victims have been the primary participants. I have advocated for the development of a victim-centered reparations policy and supported the establishment of a sub-committee of victims under the TRNUC Act to lead the development of that policy. I have worked closely with victims through the convening of public meetings, which were widely televised to ensure that their voices were heard. I also supported the organization of victims into an Association of Victims independent from the Commission during the concluding months of the TRNUC's mandate to ensure that victims had a platform from which they could lobby for the implementation of reparations.

While victim participation in the proceedings at the ICC is governed by the decisions of the Chambers, it is imperative that the Registry take all measures within its authority to enhance the experience of victims not just as participants in the proceedings but as stakeholders in the system of international criminal justice more generally. In that respect, in discharging the Registry's responsibility in the identification and processing of victims' applications for participation, in the assignment of legal representation for victims, and in facilitating applications for participation in the reparations process, the simplicity and efficiency of procedures are key as is appropriate coordination between the different entities in the Registry charged with engagement with victim communities. The Chambers has already implemented significant steps to simplify the process of victims' application to participate in the proceedings but further improvements could be made by the Registry in terms of more timely and intensive outreach campaigns involving suitable forms of social media or other methods of communication tailored to the communication consumption of the targeted populations to ensure that as many victims as possible are aware of their participatory rights as early as possible. Early engagement with victim communities should reduce the possibility of the exercise of rights to participation being rendered moot as a result of procedural time-frames set by the Chambers. In addition, victim participation applications should also include confirmation of participation in future reparations that may be ordered by the Court. This would avoid having to go through an application process again with participating victims and the focus at the reparations stage would be limited to identifying other victims eligible for reparations. As a matter of course, monitoring and evaluation of Court engagement with victim communities should be undertaken either by the Registry or in collaboration with civil society actors on the ground. In this regard, the Court, and the Registrar in particular, given his or her particular responsibilities for outreach activities concerning the Court, needs to have an appreciation of the experiences of victims as a first step towards the adoption of measures to enhance those experiences consistent with the legal framework of the Court as already noted in question 2 above.

7. The registrar has a special mandate vis-à-vis the outreach activities of the Court, especially regarding victims and affected communities. How will you ensure that outreach is carried out at the earliest stages of proceedings, including preliminary examinations, and how would you describe the roles and responsibilities of the Registry and other organs in these different phases? Please elaborate on any experience relevant to fulfilling this mandate, as well as your philosophy regarding the role of the ICC's field presence.

Without prejudice to the Prosecutor's role, the Registrar serves as the channel of communication of the Court and is mandated to provide information about the Court to victims and affected communities. With respect to ensuring that outreach is carried out at the earliest stage it is accepted that communications with impacted communities at the preliminary examination stage requires careful managing of expectations, especially against the backdrop of the historical reality of some preliminary examinations going on for over a decade without an investigation being opened. Nonetheless, it is far better to engage and manage those expectations,

while also closing the gap for potential misunderstandings or misinformation on the part of those who may oppose the intervention of the Court, than not.

Notably, the Regulations of the Registry do not appear to envisage the Registry undertaking outreach at the preliminary examination stage of the proceedings, with Regulation 5*bis* specifically referring to “situations and cases before the Court”. Moreover, in response to recommendations by the IER concerning Court outreach at the preliminary examination stage, the Court has expressed the view that it is important that the Prosecution “remains in control of the messaging to safeguard against politicization of the often delicate preliminary examination process”.³

That said, as has been recognized by the Chambers in the situation in the State of Palestine, the rights of victims before the ICC are not limited to their participation in judicial proceedings and victims have a right to provide information, receive information and communicate with the Court independently from judicial proceedings, including during the preliminary examination stage. Thus, as the Chambers have recognized, at the preliminary examination stage information should be provided to victims about the mandate of the Court and its activities as a first step in raising public awareness. This has also been a fairly consistent position advocated by the ASP as well as civil society, who are often best placed to witness and assess the impact of the Court’s failings in timely communications. Accordingly, and given the concerns regarding the mandate of the Registrar at the preliminary examination stage, coupled with the need for the Registrar to respect the independence of the Prosecutor, the Chamber may play a role in directing the Registrar with respect to the undertaking of outreach activities on the ground.

In terms of the stages of the proceedings, during the preliminary examination stage, I would envisage the Registry, under the authority of the Chamber, implementing public information and outreach activities that provide neutral information about the Court. I would also envisage the Registry at this stage developing initial relationships with civil society partners to ensure that information about the Court is provided in a way that is accessible to the targeted community. Further, at this stage the Registry’s public information and outreach activities could be implemented in coordination with and complementary to those of Prosecutor, without impugning the impartiality of the Registrar or the independence of the Prosecutor.

Once an investigation is open, or more importantly, an arrest warrant issued, the Registry would need to play a more active role in the provision of information to victims about the scope of their rights of participation, rights to assistance with legal representation if they do not have means, and potential for participation in reparations programs in the event of a conviction. Early provision of this information at the investigative stage and arrest warrant stage should also aim to manage expectations by providing information about the experiences of the Court in other situations with respect to the enforcement of arrest warrants, length of proceedings, potentials for acquittal at trial and on appeal and other relevant information that can provide the victims with a holistic appreciation of the work of the Court and its potential limitations to them as victims while also underscoring the value of being part of an international criminal justice process regardless of the ultimate outcome. While the responsibilities of the Registrar to disseminate information and engage in outreach once a matter is before the Court are clear, the activities of the Registrar could be bolstered and supported by the orders of the Chamber, which may provide guidance to the Registry and ensure that such activities are implemented in a timely manner whereby maximum benefit can accrue to victims. In addition, orders by the Chambers for the implementation of appropriate outreach activities could provide assistance to the Registrar in securing funds for these activities during the budgeting process.

Thereafter, if a trial proceeding is commenced, security situation and resources permitting, I would consider the establishment of a field office at that stage of the proceedings (if not before) to be a key element of

³ Overall Response of the International Criminal Court to the “Independent Expert Review of the International Criminal Court and the Rome Statute System Final Report”, Preliminary Analysis of the Recommendations and information on relevant activities undertaken by the Court, 14 April 2021, at para. 321.

establishing meaningful two-way communication with victims' communities, civil society and the Court. In that regard, my philosophy regarding field presence is that field presence is necessary for meaningful victim participation at least from the commencement of trial and to be effective such field presence must be appropriately resourced. Staff in field offices must have the capacity to communicate with victims in a language they understand and through forms of communication they have access to. In that respect, I am of the firm view that the Court must pay particular attention to the criticisms that have been leveled against the Court concerning its interaction with victims' communities, primarily by civil society, and demonstrate a firm commitment to improving the experience of victims. Doing so will enhance its reputation, while shoring up the support of civil society by meeting its mandated objectives with respect to the Court's relationship with and recognition of victims as the cornerstone of the Rome Statute system.

In terms of previous experience in implementing a mandate of communication with victim communities, in my capacity as Chef de Cabinet and Principal Legal Advisor to successive Presidents of the ICTY and IRMCT, I oversaw the communications and outreach program of the Registry and participated directly in numerous outreach activities with victims' groups, which explained the proceedings before these international courts and the judgments issued. Notably, outreach and communications by the ICTY were significantly improved by the presence in The Hague of a local news agency from the former Yugoslavia, which directly communicated the proceedings to the affected communities. This is another avenue that may be explored by the Court in terms of ensuring appropriate and effective communications with victim communities but also situation countries more broadly.

At the TRNUC I have led the communications with the victims and have adopted a range of measures to ensure a proper understanding of the mandate of the Commission and its limitations through op-eds that have been widely published in local media, televised interviews and televised and radio-broadcasted public hearings, which were also streamed on YouTube to reach victims living outside of the Seychelles. Through these media I have systematically provided updates on the progress of the work of the Commission, offered comprehensive explanations concerning the scope of the Commission's mandate and the rights of victims, and addressed misunderstandings more generally about the work of the TRNUC. I have also surveyed victims' communities on issues of particular relevance to them, namely amnesty and reparations, and held public meetings, which were widely televised and live-streamed to give victims the opportunity to be heard and their questions and concerns directly addressed in those forums. Through so doing, I have ensured that victim communities were provided with the information needed to allow their full participation and appreciation of the work of the Commission.

8. The ICC has established constructive and long-term relationships with non-governmental organizations (NGOs) and the press. Please describe any previous experience you have working with NGOs. How do you see the Registry's role towards these actors?

During my tenure at the ICTY and IRMCT I regularly engaged with NGOs from the former Yugoslavia and Rwanda as well as other international NGOs working on international criminal justice issues in The Hague and in New York to provide information and to seek support for the work of the institutions from the NGO community. In addition, I have served for a number of years as Chair of the Women's Initiatives for Gender Justice, an organization that has regularly partnered with other NGOs in Uganda, Democratic Republic of the Congo, Colombia, Ukraine and other conflict countries in the implementation of programs centered around ensuring gender justice at the ICC. In particular, the Women's Initiatives for Gender Justice has developed strong partnerships with local NGOs and thousands of grass root activists in situation countries.

As Chairperson of the TRNUC, I have worked closely with civil society activists on the ground in the Seychelles. Admittedly, the relationship has not always smooth running given the different objectives of civil society activists and of the Commission pursuant to its mandate, but I consistently addressed concerns in an open and transparent manner and succeeded in securing their trust in a fraught political environment.

With respect to my engagement with the press, at the ICTY and IRMCT in my capacity as Chef de Cabinet and Principal Legal Advisor to successive Presidents, I oversaw the communications of the Registry with the press and supervised the development of media policies to govern press engagement by the Registry. In my role as Chairperson of the TRNUC, I have regular engagement with the press and have given countless television and print interviews, as well as appeared regularly on television and streaming platforms as a result of the public hearings of the Commission as already set out in question 7 above.

At the ICC, much as at the ICTY and IRMCT, the Registrar as the channel of communications of the Court has a particular role to play in providing information about the Court to the press and ensuring appropriate messaging that preserves the impartiality of the Registry and the independence of the Chambers and the Prosecutor. In that respect, the Registry's engagement with the press must always promote the integrity of the Court as an institution. Under the authority of the President, I see the Registrar as having regular engagement with the international press as a means of educating the world public in general about the mandate of the Court and with journalists based in situation countries to ensure accurate information about the Court is disseminated using appropriate means of communication tailored towards the intended audience.

I also envisage the Registrar having regular engagement with NGOs as means of ensuring accurate understanding about the progress of the work of the Court, particularly as NGOs are often a direct channel to victim communities and other stakeholders with an interest in the work of the Court. In addition, given the significant role played by NGOs in direct engagement with victim communities and in monitoring the work of the Court, I see the Registrar playing an important role in the development of collaborative relationships with NGOs and the Court that may, in turn, facilitate the work of the Court both in The Hague and in affected States and communities.

For the relationship of the NGO community with the Court to be optimal, I consider that the Registrar has a responsibility of listening to NGO concerns and being responsive thereto within the limits of the mandate of the Registrar, and always subject to the authority of the President. In that respect, the importance of NGO support for the reputation and success of the Court should not be underestimated.

Fair trials and equality of arms

9. The ICC registrar is responsible for establishing the eligibility and qualifications of external counsel and team members and providing support to defence counsel and legal representatives of victims. Please describe your experience with these issues, including the administration of legal aid and providing access to necessary facilities and resources to protect the rights of the defence. Please also describe your experience in addressing issues such as gaps in gender equality and working conditions on external teams.

During my tenure at the ICTY and the IRMCT, I was the senior advisor to the President on all matters raised by defence counsel concerning decisions taken by the Registrar. I accordingly advised the President on the judicial review of decisions of the Registrar concerning the exclusion of persons from the list of counsel, assignments of counsel, indigency assessments of accused persons, the allocation of legal aid funding, and numerous other matters raised by defence counsel falling within the purview of the Registrar.

I also served on the Advisory Panel on Defence Matters mandated to provide advice to the President and Registrar on matters relating to defence counsel for the IRMCT and ICTY and served as a member of the Disciplinary Panel adjudicating claims of misconduct made against defence counsel at the ICTY.

As accused persons had rights to select their counsel from the list of counsel at the ICTY and IRMCT, there were limits in the degree to which the Registrar at these tribunals could address gender equality in the

assignment of defence counsel. However, efforts were made by the Registrar, acting under the authority of the President, to increase the number of female candidates appearing on the list. Further, as defence counsel were responsible for the determination of working conditions within their teams there were limits of authority to addressing working conditions within those teams. However, more broadly, I advised the President on measures to ensure that defence counsel were provided with adequate working spaces at the institutions and access to library resources and databases as measures towards ensuring the overall fairness of the proceedings.

Cooperation with the court

10. Cooperation of states parties is key for the court to discharge its mandate. What measures or initiatives will you take to increase cooperation with the court, including to increase the number of cooperation agreements in particular for the release of persons, enforcement of sentences and witness relocation?

With no enforcement capacity, the ICC is dependent upon and at the mercy of States Parties' cooperation. States Parties' cooperation is not only essential to the Court's efficiency and effectiveness but also has consequences for the Court's goal of universality. A Court that is not seen to be strongly supported and by extension highly valued by its States Parties is unlikely to attract or install confidence in non-States Parties with respect to the value of joining the Court.

As already noted, it is no secret that States Parties' confidence in the Court has been dented by perceived failings on the part of the Court. In that respect, as a first step, States Parties' confidence in the Court needs to be fully restored. The Registry can play a significant role in the restoration of States Parties' confidence by, under the authority of the President, addressing some of the identified areas for reform by the IER in collaboration with the Review Mechanism and committing to a culture of efficiency bolstered by the collection of relevant data that allows performance to be properly assessed and areas of inefficiency or ineffectiveness to be identified so that they may be addressed. As already emphasized, it is critical that the Court demonstrate responsiveness to agreed reforms but also shows a commitment to continuous learning and improvement.

As a further means by which to motivate States Parties' cooperation, I would propose that the Court expedite the development of performance indicators that track the impact of States Parties' cooperation on the efficiency and effectiveness of the Court's execution of its mandate. By making the impact of States Parties' non-cooperation visible and identifying the specific areas where that cooperation is less than optimal the Court can then develop strategies and targeted measures to address these issues. In this regard, it has to be underscored that the success or otherwise of the Court does not rest upon the Court alone; it is a shared responsibility and where States Parties' non-cooperation is impacting the Court's success, that non-cooperation should be specifically identified and States Parties required to take corrective measures.

One of the key areas of cooperation by State Parties is that of sentence enforcement, witness relocation and release of persons on their territories. With respect to the goal of increasing the number of cooperation agreements for the enforcement of sentences, witness relocation and release of persons, it is important to emphasize that these are not agreements States Parties are obligated to enter into with the Court but voluntary commitments. Nonetheless, the Rome Statute envisages an in-principle sharing of these burdens among States Parties. In that respect, these types of agreements take on particular importance as a means by which of States Parties may demonstrate their commitment to the success of the Court, an important signal in terms of encouraging other States to join the Court.

In terms of seeking to address this matter, I would rely on my extensive first-hand experience of engaging with States on these issues in my capacity as Chef de Cabinet and Principal Legal Advisor to the President of the ICTY and IRMCT. In terms of strategy, the first step involves understanding the obstacles to entering into these

agreements. Information regarding the concerns of each State could be gathered through the administration of surveys or other outreach activities, including bi-lateral engagement, and once obtained could form the basis for the development of targeted strategies to assist in removing any obstacles standing in the way of cooperation.

For example, it may be that obstacles are based on States Parties' misunderstanding of the implications of entering into such voluntary agreements with the Court. This obstacle may be addressed by sharing the experiences of States that have entered into such agreements with the Court with other States. This was an approach adopted at the ICTY and IRMCT. Outreach sessions were organized where States that were enforcing ICTY sentences shared their experiences with other States and provided insights into the challenges faced and measures taken to remove those challenges. At those same outreach sessions, senior Registry officials and senior President's Office staff would provide information about the expectations of the institution with respect to implementation of agreements by States, challenges that had been encountered in the past and the availability of tribunal support to States to address those challenges.

In addition, where the Court's enforcement framework presents obstacles for States there may be ways for the Court to modify that framework to facilitate the entering into of an agreement. For example, in many enforcement States, remissions of sentence are a management tool used by prison authorities to encourage good behavior on the part of the prison population. Yet remission of sentence was inconsistent with the authority of the ICTY over the length of the sentence to be enforced. The non-recognition by the ICTY of the application of remissions of sentence caused concern for States because this tool was not available in the management of ICTY prisoners and violated principles concerning the non-discrimination among the prison populations. To address this issue with States, the President agreed to provisional recognition of the application by the national authority of remissions to sentence, while retaining full authority over the actual date of release of an ICTY convicted person by that national authority.

Other challenges that faced States in the implementation of ICTY enforcement of sentence agreements concerned the consistency of the length of the sentence imposed by the ICTY with national legal frameworks and human rights concerns about discrimination against international prisoners through non-application of national maximum terms of incarceration. The ICTY addressed this issue with States by recognizing the national limitation of sentencing terms and making provision in sentencing agreements for the return of the convicted person to the custody of the ICTY when the maximum sentence had been reached in a State.

There may be other obstacles that relate to the technical capacity of a State to implement a voluntary agreement to the standards required under the agreement as well as the economic burdens that may be associated with doing so. I would again draw on my experiences with the ICTY and IRMCT, where these types of issues were addressed through the provision of technical expertise to States, including the training of State prison officials, organizing the provision of advice to States by independent supervising bodies, such as the International Committee of the Red Cross, and the provision of financial assistance, including to modify facilities to ensure they met international standards of imprisonment.

Where these same types of obstacles are present with respect to States Parties entering into witness relocation agreements, these same types of measures of technical capacity building and financial assistance could be implemented to assist States.

Encouraging States to agree to the interim release of persons on their territory during proceedings or to accept accused released following acquittal or termination of proceedings or convicted persons following completion of sentence when they cannot return to the State that has the responsibility to receive them may pose specific challenges for States due to the domestic consequences of allowing persons accused of serious international crimes to enter their territories. These domestic challenges are difficult to address and were encountered by

the ICTR and the IRMCT in relation to the relocation of persons who had completed the serving of their sentences in Arusha or had been acquitted by these institutions.

As a first step, I would propose specific engagement by the Court with States Parties on this issue to ensure an appropriate understanding of resistance to these agreements and then the development of strategies towards addressing that resistance.

I would also propose the implementation by the Court of a more general public campaign concerning the rights of persons accused or acquitted before the Court and the importance of facilitating respect for those rights as a measure of the fairness and therefore success of international criminal justice processes. This approach would aim to sensitize the public more generally to the issue and its importance.

Experience in budgetary processes

11. Please describe your experience preparing and being responsible for a large budget, including whether you have experience in working with a results-based budgeting system and with gender responsive budgeting. What strategies would you undertake in relation to the preparation, submission and examination of the ICC budget to ensure support by the Committee on Budget and Finance and states parties?

As budget preparation at the ICTY and the IRMCT was a collaborative effort involving the participation of senior management and all Section Chiefs charged with identifying their budgetary needs and providing justificatory narrative, I have hands-on experience in the preparation of large budgets including a results-based budgeting process, which was eventually the method adopted by the IRMCT. As Chef de Cabinet and Principal Legal Advisor, I identified the performance targets of the Office of the President and drafted and supervised the drafting of narratives in support of budget submissions. I also reviewed submissions proposed by the Chambers, the Chambers falling under the general authority of the President. In addition, while serving as Acting Head of Chambers, I successfully made a business case for the allocation of additional resources to Chambers at a time when zero growth was being enforced by United Nations budgetary authorities.

Further, as the President exercised overall supervisory authority over the Registrar, the budget proposal of the Registrar was subject to review by the President and I assisted in that review so as to ensure that budget requests were fully justified and would withstand the rigor of close scrutiny. In addition, I supported the President in lobbying efforts with United Nations Member States and budgetary authorities, including the United Nations Controller, the Advisory Committee on Administration and Budgetary Questions (ACABQ) and the Fifth Committee.

In my position as Chairperson of the TRNUC I have also been responsible for the preparation of the budget, and more specifically the budget narrative using a results-based budgeting model. While the TRNUC is a much smaller institution than the above, it is a standalone institution and I had to deal with the identification of and justification for a wide range of staffing and non-staffing resources. In addition, I led procurement and tender processes in compliance with applicable financial rules and regulations, and responded to audit bodies. On the whole, my experiences with the TRNUC have underscored to me that the same methods and principles are applicable regardless of the size of the budget.

In addition, I have expertise in gender-responsive budgeting deriving from my experience as Chair of Women's Initiatives for Gender Justice, an NGO that advocates for gender-responsive budgeting at the ICC. Essentially, gender-responsive budgeting analyses the effect of budgetary proposals on different genders and the norms and roles associated with them and advocates for gender equitable distribution of resources, thus ensuring budgeting that provides equal opportunities to all. I made a presentation on gender-sensitive budgeting in

programming at the 2021 ASP, during the Trust Fund side event “No Women or Girls Left Behind – Programming Through a Gender Lens”.

In terms of strategies of preparation, as already set out in relation to question 2 above, given the important role played by the Registrar in relation to securing the budget of the other organs, the early development of a shared vision as to the results to be achieved in a budgetary cycle and the resources needed to achieve that must be agreed and committed to by all organs. In terms of the submission of that budget, as also indicated in relation to question 2 above, I would try and submit a budget that mirrors the typical approach to analysis of the budget by the CBF. I would also ensure that the budget addresses any observations that have been made by the CBF in relation to the previous budget. When it comes to the examination of the budget prepared and submitted before the CBF, as already set out in my answer to question 2 above, I would identify the business case for the allocation of resources requested and tie the budget submission to the strategic goals of the Court, using comparative analysis from collated data and performance indicators in support of the business case.

Thank you.